

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

27433

FILE: B-211240.2

DATE: February 14, 1984

MATTER OF: MASSTOR Systems Corporation--
Reconsideration

DIGEST:

Requirement for new operating system, available from only one vendor, is not unduly restrictive where nothing in solicitation precluded third party from offering that vendor's computer with peripherals from other manufacturers. Protester, supplier of mass storage peripheral devices, was affected by requirement for new operating system only because manufacturers of compatible computers were affected; consequently, these manufacturers stand between protester and challenged requirement as parties of greater interest, foreclosing protester's status as an interested party. Decision is affirmed.

MASSTOR Systems Corporation (MASSTOR) has requested reconsideration of our decision in MASSTOR Systems Corporation, B-211240, December 27, 1983, 84-1 CPD, in which we denied in part and dismissed in part a protest by MASSTOR against request for proposals (RFP) No. N66032-82-R-0023 issued by the Department of the Navy's Automatic Data Processing Selection Office (ADPSO). We affirm our decision.

The RFP sought a single prime contractor to provide a large-scale, IBM-compatible computer system with MVS/XA capability, including a mass storage device. (MVS/XA is a relatively new operating system which was available only from IBM during the applicable period.) The contractor was to be responsible for the installation, documentation, and continuing support of the system. MASSTOR is a supplier of IBM-compatible mass storage devices.

MASSTOR contended that (1) the requirement for a single prime contractor was unduly restrictive and argued that the mass storage portion of the requirement should be broken out for separate procurement; and (2) the requirement for MVS/XA was also unduly restrictive because it precluded competition

55 1984

by IBM-compatible computer suppliers, such as Amdahl Corporation and ViON Corporation, thereby eliminating potential computer suppliers with which MASSTOR might team on this procurement. We found that the Navy's requirement for a single prime contractor was reasonable, based on the contractor's responsibility for all aspects of the integration, installation and support of this large and complex computer system. We declined to consider MASSTOR's challenge to the Navy's MVS/XA requirement because MASSTOR did not have the requisite interest under our Bid Protest Procedures, 4 C.F.R. part 21 (1983), to challenge this requirement and no computer supplier who was directly eliminated from the competition by this requirement filed a timely protest.

MASSTOR contends that our decision was based on errors of fact. In this respect, MASSTOR states that we erroneously concluded that the MVS/XA requirement limited this procurement to IBM computers only and not also to peripheral equipment, such as mass storage devices; MASSTOR asserts that when considered with the single prime contractor stipulation, the requirement for MVS/XA effectively limited the total procurement to IBM equipment, including peripheral devices. MASSTOR also contends that it was directly affected by these requirements and argues that we were wrong in concluding that MASSTOR lacked the requisite interest under our Bid Protest Procedures to challenge the Navy's requirement for MVS/XA.

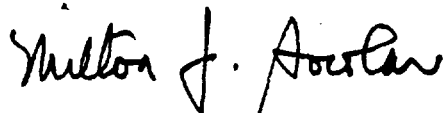
We believe our decision was correct. With respect to MASSTOR's first contention, we note only that nothing in the solicitation precluded a third-party systems integrator--or even MASSTOR itself--from offering an IBM computer with its own peripherals or those of other manufacturers; consequently, we do not agree with MASSTOR that the MVS/XA requirement precluded the use of peripherals from manufacturers other than IBM. Moreover, MASSTOR was affected by the MVS/XA requirement only because IBM-compatible computer suppliers were affected by the requirement; consequently, MASSTOR was affected only indirectly and these parties stand between MASSTOR and the MVS/XA requirement as parties of greater interest, foreclosing MASSTOR's status as an interested party with respect to this question. American Satellite Corporation--Reconsideration, B-189551, April 17, 1978, 78-1 CPD 289.

During this reconsideration, both MASSTOR and ViON have asserted that a recent decision of our Office, Amdahl Corporation, B-213150, January 3, 1984, 84-1 CPD _____, held that a requirement for MVS/XA, available only from IBM, was

unduly restrictive. Although, as we noted above, MASSTOR lacks the requisite interest to challenge this requirement and ViON never filed a timely protest with our Office, we believe this argument warrants comment.

In the decision to which these parties refer, we found that a mandatory requirement, in a solicitation issued by the District of Columbia, for offerors to list at least three customer facilities where their equipment was currently operating with MVS/XA was inconsistent with the District's intent to consider proposals from offerors who did not have a current MVS/XA capability. In other words, we found only that the solicitation did not accurately reflect the District's evaluation scheme. We did not conclude, in that decision, that the District's requirement for MVS/XA unduly restricted competition.

Our prior decision is affirmed.

for 
Comptroller General
of the United States